

# Together With



FALL 2004

A PUBLICATION OF THE TENNESSEE DEPARTMENT OF LABOR &amp; WORKFORCE DEVELOPMENT

## TOSHA Annual Report

During the twelve-month period from July 1, 2003, until June 30, 2004, Tennessee OSHA health and safety inspectors conducted 2,185 inspections, identified 6,591 hazards, and assessed \$2,510,800 in penalties. TOSHA consultants performed 359 visits, identified 3,297 hazards, and issued \$0 in penalties. By law TOSHA's consultative services program does not assess monetary penalties.

These activities occurred under the direction of the Administrator of TOSHA, John Winkler and the Assistant Administrator, Steve Hawkins. Eight program managers provided oversight for the compliance, consultation, training, Voluntary Protection Program (VPP), public sector, and standards activities. There are 102 total positions in TOSHA; 42 are occupational safety specialists; 30 are industrial hygienists; there are two chemists in the AIHA accredited laboratory. Other positions are support staff including administrative and legal positions.

Special emphasis programs in excavation safety, fall protection, carbon monoxide, occupational noise, and amputations continue to help focus activities where TOSHA intervention is most needed. All TOSHA compliance and consultative assistance staff are authorized to stop and inspect immediately where any

trenching or fall hazards are identified.

Carbon monoxide, occupational noise, and amputation hazards are investigated as part of every TOSHA inspection and consultative visit.

To reward companies with proactive safety and health programs, TOSHA has awards and recognition programs in place. Eighteen companies in Tennessee currently fly the Volunteer Star flag as members of the prestigious Voluntary Protection Program. Nine companies are now actively part of the SHARP program for small businesses. And eleven companies received either the Commissioner's Award or the Governor's Award at the Tennessee Safety and Health Congress this past July.

Changes to the TOSHA Act affecting employers and employees were detailed in the last newsletter. These changes had to do with extending discrimination protection to public sector employees, protecting the identity of witnesses, and providing city and county governments an opportunity to join the TOSHA public sector program.



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## What's New?

## TB And Respiratory Protection

On December 31, 2003, OSHA withdrew the standard at 29 CFR 1910.139-Respiratory Protection for M. Tuberculosis. At that time establishments whose respiratory protection programs for tuberculosis were covered under that standard were required to adapt their programs to comply with the requirements of 29 CFR 1910.134. To allow employers time to come into compliance, enforcement was delayed until July 2, 2004. TOSHA will now issue citations for non-compliance with 29 CFR 1910.134.

There are five areas under 1910.134 where the requirements are now more detailed. These are

1. **Medical Evaluations** - 1910.134(e)–Makes it a requirement that employees assigned to tasks requiring a respirator be medically evaluated to ensure that they are physically able to do the work and wear the respirator; provides details on how this must be done.
2. **Fit-Testing** - 1910.134(f)–Requires fit-testing to be performed annually; requires the employer to follow one of the fit-testing methods detailed in Appendix A.
3. **Written Program** - 1910.134(c)–Requires details of each element of the facility's respirator program be included in the written program.
4. **Training** - 1910.134(k)–Training includes several new elements and specifies that training must be done prior to an employee's first respirator use and at least annually thereafter.
5. **Recordkeeping** - 1910.134(m)–Requires that employers keep all medical evaluation records and a copy of the current fit-test record for each respirator user.

After the inspection is concluded with the closing conference, the TOSHA compliance officer compiles the case file and report. This includes documentation of all apparent violations. Employee exposure must be documented for a citable violation to occur. In consultation with appropriate supervisors, the compliance officer determines the citations and monetary penalties that will be issued. Violations are classified into one of the following categories:

1. **Non-Serious violations** -The most serious injury or illness likely to result from a hazardous condition cannot reasonably be predicted to cause death or serious physical harm to exposed employees but does have a direct relationship to their safety and health.
2. **Serious violations** -There is a substantial probability that death or serious physical harm could result from a hazardous condition in the workplace.
3. **Willful violations** -The evidence shows either an intentional violation of the TOSHA Act or plain indifference to its requirements.
4. **Criminal willful violations** -A willful violation resulting in the death of an employee may be deemed criminal by the Tennessee Attorney General.
5. **Repeated violations** -The employer has been cited previously (in the past 3 years) for a substantially similar condition anywhere in the corporate structure of the company.
6. **Failure to Abate** -The employer has not corrected a violation for which a citation has been issued and the abatement date has passed.

Citations are sent to the employer by certified mail, return receipt requested. They are issued within six months of the occurrence of the violation. Citations are mailed to employee representatives no later than one working day after the citation is sent to the employer.



Together with TOSHA is the newsletter of the Division of Occupational Safety and Health.

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There was not much activity in regard to new standards or regulations in the past year. Federal OSHA released ergonomic guidelines for the retail grocery trade and for poultry processing. There was a change to the commercial diving standard, 29 CFR 1910.400 and 401, providing alternative requirements for recreational diving instructors and diving guides. The standard at 29 CFR 1910.139, Respiratory Protection for M. Tuberculosis, was withdrawn and hospitals, nursing homes, etc. providing such protection must now comply with 29 CFR 1910.134. On October 4, 2004, a proposed rule on hexavalent chromium was published.

How do things look for the future? Items on OSHA's regulatory agenda at the pre-rule stage include confined spaces in construction and a review of the excavation and ionizing radiation standards to determine if they are still necessary and/or need to be updated. Proposed rules have been published involving electric power transmission and distribution, walking/working surfaces, electrical standards, and explosives. In the long term, OSHA is visiting issues dealing with payment for personal protective equipment and slip resistance of skeletal structural steel.

In spite of the hard work from TOSHA and the other safety and health professionals in the state, employees still are being killed on the job. In calendar year 2003, TOSHA investigated 36 workplace fatalities and three catastrophes. Thirteen of the fatalities occurred when employees were struck by trees, vehicles, forklifts, etc., and 11 were the result of falls. Four workers died when equipment overturned, three were electrocuted, and three died from burns received in fires or explosions. One employee drowned and one died from heat stroke. Two of the three catastrophes involved carbon monoxide and the other occurred when oxygen was used to inflate a flat tire.

**Potential Effects:** Overexposure to airborne chemicals which may result in a variety of health problems including dizziness, nausea, vomiting, fever, unconsciousness, damage to bodily organs, birth defects, reproductive effects, cancer, and death.

**Standard:** 29 CFR 1910.134(a)(2) Provision of appropriate respiratory protection

**Recommended Action:** Evaluate respiratory hazards in the workplace and select the appropriate respirator based on the respiratory hazards to which the worker is exposed and the relevant workplace and user factors that affect the respirator performance and reliability. Select a respirator approved by the National Institute of Occupational Safety and Health (NIOSH).

When evaluating the respiratory hazards, include in the evaluation a reasonable estimate of the employee exposures to the respiratory hazard(s) and an identification of the air contaminant's chemical state and physical form. If the employee exposure cannot be identified or reasonably estimated, consider the atmosphere to be Immediately Dangerous to Life and Health (IDLH) and select a supplied air respirator.

Select the respirator from a sufficient number of models and sizes so that the respirator is acceptable to and correctly fits the user. Provide the respirator at no cost to the employee. Require that the employees who are overexposed to a chemical for which TOSHA has a permissible exposure limit (PEL) wear the respirator at all times while exposed to the chemical.

TOSHA PELs are found in Table Z-1-A of the Tennessee Department of Labor and Workforce Development Rule 0800-1-1-.07(2) and in the expanded health standards in 29 CFR 1910, Subpart Z.

## *Limitations and Hazards to* **Working Teens**

Teen workers can be an asset to your workforce. They are enthusiastic and eager to learn. However, injuries can have a lifelong impact. According to the National Institute for Occupational Safety and Health, each year about 70 working teens die and about 77,000 are injured seriously enough to require hospital emergency department treatment. An estimated 230,000 working teens may be injured each year.

**Seventeen-year-old Joe lost his life while working as a construction helper. An electric shock killed him when he climbed a metal ladder to hand an electric drill to another worker.**



Child Labor Laws specify conditions under which teens may work. They include the following:

An employee must be at least

16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs, subject to certain work hour restrictions.

Teens are also limited in the types of jobs they may perform.

No worker under 18 may drive a motor vehicle as a regular part of the job or operate a forklift at any time. They may not operate many types of powered equipment like circular saws, meat slicers, etc.



**Eighteen-year old Sylvia caught her hand in an electric garbage shredder at a fast food restaurant. Her hand is permanently disfigured and she'll never have full use of it again.**

Of course, when teens are working they are protected by all TOSHA regulations. For more information about working teens contact the Tennessee Department of Labor and Workforce Development's Labor Standards Division at 615-741-2858 or at [www.state.tn.us/labor-wfd/lstdiv](http://www.state.tn.us/labor-wfd/lstdiv).

# L

## EARN & LIVE

### ON-SITE CONSULTATIVE SERVICES PROBLEM SOLVER



Employees in the rolling room at a bread baking facility were exposed to noise levels averaging 86 to 90 decibels, making them overexposed to TOSHA's action level of 85 dB. Most of the noise was generated from metal on metal impact created by placing metal bread pans in metal racks.

One way for the company to come into compliance with TOSHA's noise standard was to establish a hearing conservation program for the overexposed employees. Since this could become costly over time, the employer decided to try to reduce the noise levels below the action level. Several ideas were experimented with and it was found that damping the racks to reduce the metal on metal noise would be effective in lowering the overall noise levels. The final idea was to coat the tops of the racks with rubber. The company also contacted the Food and Drug Administration (FDA) to ensure that the rubber coating meets FDA approval.

Subsequent noise monitoring by TOSHA found that the levels were significantly lower, and the employer no longer had employees exposed to noise levels above the action level. The new exposures were 80 to 84 decibels. The cost of coating was \$15 per rack, approximately \$300 in total costs. This is much lower than the long-term costs of hearing conservation program elements such as the purchase of hearing protectors, annual training, and annual audiograms.

The employer was further advised to

1. Periodically monitor noise levels to ensure effectiveness of the established controls
2. Establish a hearing conservation program including annual audiograms, hearing protection, and noise training if noise levels exceed 85 decibels as an eight-hour time weighted average.

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